

Appln No. 10/767,875
Amdt date January 17, 2007
Reply to Office action of October 17, 2006

REMARKS/ARGUMENTS

In the Final Rejection dated October 17, 2006, the examiner objected to claim 10 requiring correction of a typographical error. Applicants have amended claim 10 as suggested by the examiner and therefore respectfully request withdrawal of this objection.

The examiner also objected to claim 12 under 37 C.F.R. § 1.75 as allegedly being a substantial duplicate of claim 10. Applicant respectfully disagrees. Claim 12 includes limitations not recited in claim 10. Specifically, claim 12 recites a positive electrode and a separator, which features are not included in claim 10. Accordingly, claim 12 is not a substantial duplicate of claim 10 and applicants respectfully request withdrawal of this objection.

In addition, the examiner rejected claims 10 and 12 under 35 U.S.C. § 102(b) as allegedly anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Idota, et al. (U.S. Patent No. 5,618,640). However, applicants have amended independent claims 10 and 12 to recite that the negative electrode *consists essentially of* a carbonaceous material and an aqueous binder. Idota fails to teach or suggest such a feature. Rather, Idota discloses a negative active material including a $M^1M^2_pM^4_q$ precursor material which may include a carbonaceous component.

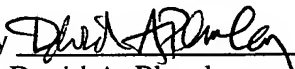
Moreover, Idota fails to teach or suggest the amounts of CO and H₂ recited in the claims of the present application. Applicant respectfully disagrees with the examiner's position that the battery disclosed in Idota would inherently generate similar gas concentrations. As noted above, Idota discloses a negative active material including a $M^1M^2_pM^4_q$ precursor material which may include a carbonaceous component. The addition of the $M^1M^2_pM^4_q$ precursor material may affect the concentration of generated gas. Therefore, the electrode disclosed in Idota would generate different gas concentrations than the electrodes claimed in the present application. Accordingly, claims 10 and 12 are allowable over Idota.

Claims 10 and 12 remain pending in this application. Applicants have amended claims 10 and 12 to place those claims in condition for allowance. In light of the above amendments and remarks, applicants submit that pending claims 10 and 12 are in condition for allowance.

Appln No. 10/767,875
Amdt date January 17, 2007
Reply to Office action of October 17, 2006

Applicants therefore respectfully request a timely indication of allowance. However, if there are any remaining issues that can be addressed by telephone, applicants invite the examiner to contact applicants' counsel at the number indicated below.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By  _____
David A. Plumley
Reg. No. 37,208
626/795-9900

LES/les

MMM PAS719006.1-* -01/17/07 1:30 PM